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OFFICE OF PETITIONS

In re Application of :
NIKOLAUS THERES : DECISION ON PETITION
Application No. 09/403,262 :
Filed: October 15, 1999 :
Attorney Docket No. 11216/002001 :

This is a decision on the petition filed on May 16, 2003, pursuant to 37 CFR § 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed June 18, 2002. This Office action set a shortened statutory period for reply of three (3) months. On December 27, 2002 (certificate of mailing December 18, 2002), petitioner filed a request for a three-month extension of time and a timely amendment; however, the amendment did not place the application in condition for allowance. Accordingly, the above-identified application became abandoned on December 19, 2002. A Notice of Abandonment was mailed on March 26, 2003.

With the present petition, petitioner filed a Request for Continued Examination (RCE) under 37 CFR § 1.114, including a request for consideration of a previous submission and payment of the RCE fee. The RCE has been accepted as the required reply under 37 CFR § 1.137(b)(1).

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

The application file is being forwarded to Technology Center 1600.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5589.

Christina P. Donnell

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